

JUDGE LEISURE

08 CIV 6125

358-08/PJG/BGC

FREEHILL HOGAN & MAHAR, LLP

Attorneys for Plaintiff

MARDENIZ DENİZCİLİK İSLETMELERİ AS

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New York, NY 10005

(212) 425-1900

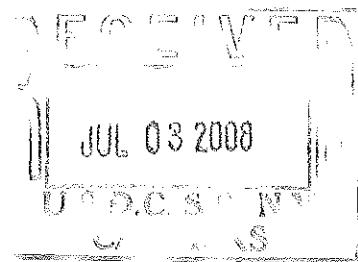
(212) 425-1901 fax

Peter J. Gutowski (PG 2200)

Barbara G. Carnevale (BC 1651)

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK



-----X
MARDENIZ DENİZCİLİK İSLETMELERİ AS,

08 Civ _____ ()

Plaintiff,

- against -

VERIFIED COMPLAINT

PEGASE INTERNATIONAL S.A.,

Defendant.

-----X

Plaintiff, MARDENIZ DENİZCİLİK İSLETMELERİ AS (hereinafter "Mardeniz"), by its attorneys Freehill, Hogan & Mahar, LLP, as and for its Verified Complaint against Defendant PEGASE INTERNATIONAL S.A. (hereinafter "Pegase"), alleges upon information and belief as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure in that it involves a claim for the breach of a maritime contract of charter party. This case also falls under this Court's admiralty and maritime jurisdiction pursuant to 28 U.S.C. §1333. Jurisdiction is also proper pursuant to the Court's federal question jurisdiction pursuant to 28 U.S.C. §1331. Federal jurisdiction also exists because the action arises under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards at 9 U.S.C. §201 *et seq.* and/or the Federal Arbitration Act, 9 U.S.C. §1 *et seq.*

2. At all times relevant hereto, Plaintiff Mardeniz was and still is a foreign business entity duly organized and existing under the laws of a foreign country with an address at Ambarli Liman Tesisleri, Mardas Iskelesi, Istanbul, Turkey.

3. At all times relevant hereto, Defendant Pegase was and still is a foreign business entity duly organized and existing under the laws of a foreign country with an office and place of business at 18 Avenue Louis-Casai, 1209 Geneva 28, Switzerland.

4. On or about December 31, 2007, Plaintiff Mardeniz, as owner, and Defendant Pegase, as charterer, entered into a maritime contract of charter party based on an amended GENCON form with terms memorialized in the attached "recap" for the use and operation of the M/V NURTEN ANA (a copy of the recap dated December 31, 2007 is annexed hereto as Exhibit A).

5. Pursuant to the terms of the charter party, the vessel was to load bagged cement for discharge at Mayotte.

6. Plaintiff Mardeniz duly tendered the vessel into service under the charter and the voyage was performed.

7. During the performance of the charter party, Defendant Pegase incurred demurrage for which it is liable to Plaintiff Mardeniz under the terms of the charter party.

8. The demurrage incurred by Defendant Pegase amounts to \$287,744.97 (a copy of Plaintiff Mardinez' Final Freight Statement is annexed hereto as Exhibit B).

9. In breach of the charter party and despite due demand by Plaintiff Mardeniz, Defendant Pegase has failed and otherwise refused to pay the demurrage which remains due and owing.

10. Plaintiff Mardeniz has fulfilled all obligations required of it under the Charter Party.

11. The charter party provides for the application of English Law and any dispute arising thereunder is to be referred to arbitration in London, and Plaintiff Mardeniz specifically reserves its right to arbitrate the substantive matters at issue.

12. This action is brought to obtain jurisdiction over the Defendant, security in favor of Plaintiff Mardeniz in respect to its claim against Defendant and in aid of the London Arbitration proceedings and to compel Defendant's appearance in the arbitration.

13. Under English law, including but not limited to Section 63 of the English Arbitration Act of 1996, costs including attorneys' fees, arbitrators' fees, disbursements and interest are recoverable as part of Plaintiff's claim.

14. This action is further brought to obtain security for the additional sums which are recoverable including Plaintiff's anticipated attorneys' and arbitrators' fees and costs in the London arbitration and interest, all of which are recoverable as part of Plaintiff's claim under English law.

15. Plaintiff estimates, as nearly as can be computed, that the legal expenses and costs of prosecuting the claim in London arbitration will be \$95,000, and interest on its damages are estimated to be \$50,355.35 (calculated at the rate of 7% for a period of 2.5 years, the estimated time for completion of the proceedings in London).

Request for Rule B Relief

16. Upon information and belief, and after investigation, Defendant cannot be "found" within this District for the purpose of Rule B of the Supplemental Rules of Certain Admiralty and Maritime Claims, but Plaintiff is informed that Defendant has, or will shortly have, assets

within this District comprising, *inter alia*, cash, funds, escrow funds, credits, debts, wire transfers, electronic funds transfers, accounts, letters of credit, freights, sub-freights, charter hire and/or sub-charter hire, of, belonging to, due or for the benefit of Defendant (collectively hereinafter, "ASSETS") at, moving through, or being transferred and/or wired to or from banking institutions or such other garnissees who may be served with a copy of the Process of Attachment issued herein, including but not limited to an asset in the form of the payment of freight and/or hire in respect to the M/V GRAND OCEAN 1 which vessel is presently operating under charter to the Defendant Pegase and which transfer(s) may purposefully omit any reference to Defendant to avoid seizure hereunder..

17. The total amount to be attached pursuant to the calculations set forth above is **\$433,100.32.**

WHEREFORE, Plaintiff prays:

- a. That process in due form of law according to the practice of this Court may issue against Defendant citing it to appear and answer the foregoing;
- b. That if Defendant cannot be found within this District pursuant to Supplemental Rule B that all tangible or intangible property of Defendant up to and including **\$433,100.32** be restrained and attached, including, but not limited to any cash, funds, escrow funds, credits, debts, wire transfers, electronic funds transfers, accounts, letters of credit, freights, sub-freights, charter hire and/or sub-charter hire, of, belonging to, due or for the benefit of Defendants (collectively hereinafter, "ASSETS"), at, through, or within the possession, custody or control of such banking institutions and/or any such other garnissees who may be served with a copy of the Process of Maritime Attachment

ATTORNEY VERIFICATION

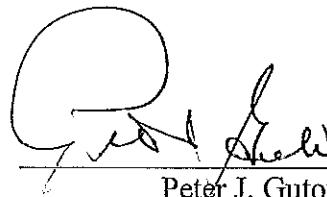
State of New York)
) ss.:
County of New York)

PETER J. GUTOWSKI, being duly sworn, deposes and says as follows:

1. I am a partner with the law firm of Freehill Hogan & Mahar, LLP, attorneys for Plaintiff in this action, I have read the foregoing Verified Complaint and know the contents thereof, and the same is true to the best of my knowledge, information and belief.

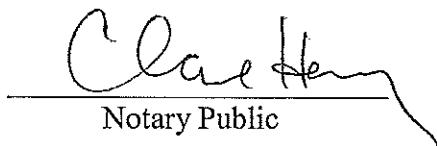
2. The sources of my information and the grounds for my belief are communications, information and documentation provided by our client and/or by solicitors representing our client.

3. The reason this verification is made by an attorney and not by the Plaintiff is because the Plaintiff is a foreign entity, none of whose officers are presently within this Judicial District.



Peter J. Gutowski

Sworn to before me this
3rd day of July, 2008



Notary Public

CLARE HENRY
Notary Public, State of New York
No. 01HE4831498
Qualified in Kings County
Certificate in New York County
Commission Expires October 31, 2009

Ex. A

-----Original Message-----

From: TGC EGYPT [mailto:mahmoud@tgcegypt.com]
Sent: Tuesday, January 01, 2008 10:10 AM
To: fix
Cc: operasyongrup; Orhan Aslan; Galip Kendigelen
Subject: RE: M/V Nurten Ana / Pegase International , CLEAN FIXTURE RECAP AS PER C/P DD 31/12/2007.

Mehmet / Mahmoud

Gd Day,

GLAD TO CONFIRM HAVING CLEAN FIXED M/V NURTEM ANA / PEGASE INT. AS PER C/P DD 31/12/2007 AS FOLLOWS:

MV NURTEM ANA
BLT 1985 - TURKISH FLAG - SID - BC
DWT SUMMER 38888 MT ON 10.931 M
GRT: (22135 INT) /NRT: (12665 INT)
LOA:180.80 M/BEM : 30.50 M
TPC:47.20 MTR AT SUMMER DRAFT
GR/BL :1.628.428 / 1.571.238 CFT
H.COVER : MC GREGOR FOLDING TYPE.
HTCH SIZ : NO 1 : 15.20 X 12.80 M
NO 2,3,4,5 : 19.20 X 15.20 M
4X25MTS CRANES
PANDI CLUB : NORTH OF ENGLAND
CLASS:NKK
NOT CO2 FITTED
ALL DETS ABOUT WOG

FOR

A/C PEGASE INTERNATIONAL S.A.
18 AVE LOUIS-CASAI
1209 GENEVA - SWITZERLAND

Some of chrts last fixtures:

- =====
- M/V Amderma: 14251 MT BGD Cement, Longkou / Mahajunga
 - M/V Dana M: 25600 MT BGD cement, Rizhao / Pointe Noire + Bissau + Banjul
 - M/V Nurten Ana: 37600 MT BGD Cement, Longkou / Pointe Noire + Bata + Douala
 - M/V Capetan Tassos: 33,000 MT BGD Cement Longkou / Pointe Noire + Bata + Douala
 - M/V Zang Za San: 12300 MT BGD Cement: Longkou / Pointe Noire + Douala
 - M/V LMZ Troodos: P/C 7000 MT steels, Odessa / Douala (as shippers)
 - M/V Boris babochkine: P/C 5000 MT Steels, Brazil / Douala(as shippers)
 - M/V Luoqing: 16800 MT BGD Cement, Quingdao / Douala
 - M/V Capitan Haris: 17300 MT BGD Cement, Damietta / Bata

Chrts P&I Club: Octant Hamburg
OCTANT et HANSEATIC:
www.octant-pandi.com
www.hanseatic-pandi.com

Zeller Associates Management is the Holding Company (web site www.za-management.com)

The P&I Octant (dedicated to Charterer Liability covers) + Hanseatic Defence are covered by Sovag, Kravag et Gothaer Insurance in Germany. They are themselves re-covered with Munich Re et Swiss Re .

BANKERS: BNP PARIBAS GENEVA
CREDIT SUISSE GENEVA
FIM BANK MALTA
FINANCE BANK RDAM

Refs:

=====

M/V Dana Muhieddine

=====

Janchart Shipping A/S, Kolding/Denmark

Ph : +45 7554 0099

Mr.Jan Joergensen

M/V Capetan Haris:

=====

CLEMKO SHIP MANAGEMENT S.A.

Capt.K.G.KYRIAKIDIS

HEAD OF CHARTERING DEPT

MOB : 0030 6932 260 743

PHONE : 0030 210 42 82 616/17

M/V Capetan Tassos

=====

VSHIPS UK

JOHN WHITE - DIRECT LINE: +44 20 7309 8728

+++

- MIN 32,000 MT BAGGED CEMENT IN SLING BAGS OF 2MT EACH BAG IN
- L/C 1 / 8 JANUARY 2008
- CHRTRS GUARANTEE CGO IS STOWAGE = DWT

-1 GSB AAAA LONGKOU/ 1 GSB or GSA AAAA Mayotte + 1 GSB or GSA AAAA MORONI +
1 GSB AAAA DIEGO SUAREZ (8.5M)

- 10,000 MTS CGO WILL BE DISCHARGED AT MAYOTTE , CHARTERERS GUARANTEE THERE IS
NO RESTRICTION AT ALL ENDS FOR M/V NURTEM ANA

- MORONI CGO MAX 13000 MTS
-L/D 8000 MT PWWD SHINC (SUPER HOLIDAYS IF ANY INCLUDED AT LOADPORT , BIMCO
HOLIDAYS WILL BE APPLIED AT DISCH PORTS) / 2000 MT PWWD SHINC + 2000 PWWD
SHEX EIU + 2000 MT PWWD SHINC

-FRT USD 81,- PMT FIOS BASIS 1-3.
FRT PAYABLE 100 PCT LESS COMM, LESS AGREED DESP+AGREED DEMMURAGE{IF ANY} W/I
3 B.DAYS AFTER COMPLETION OF THE LOADING AND SIGNING BS/L MARKED,,,FRT
PAYABLE AS PER C/P,, OUTSTANDING BALANCE + DEM [-] DESP PAYABLE W/I 15 DAYS

2 (AFTER COMPLETION OF THE DISCHARGING AGAINST OWS LAYTIME CALCULATION/ FAX COPIES OF THE NOR/SOF.

OWNS TO ISSUE CLEAN ON BOARD B/L, MASTER HAVING THE RIGHT TO REJECT ANY CGO WHICH MIGHT CLAUSE B/L N CHRS/SHIPPERS TO REPLACE SAME WITH SOUND ONE.

-DEM USD 42,500 pdpr/HD WTS BENDS .

-NOR TO BE TENDERED TO AGENTS VIA RADIO, TLX,CBLE ATDNSHINC ON ARRIVAL AT OR OFF THE PORT OF LOADING/DISCHARGING OR ON ARRIVAL FIRST PILOT STATTION W/W/W/W, BENDS.

-LAYTIME FOR LOADING AND AT 1ST DISCHARGING PORT SHALL COMMENCE AS PER 0800/1400 HRS CLSE. AT 2ND AND 3RD DISCH PORTS UPON TENDERING NOR DURING OFFICE HOURS.

-CHRTS AGENTS ALL ENDS.

-LAYTIME NON REVERSIBLE BETWEEN LOAD AND DISPORTS BUT REVERSIBLE BETWEEN DISCH. PORTS.

- Owners allow to Charterers to discharge cargo without presentation of original Bills of Lading and Charterers to provide Letter of Indemnity as per Owners P and I Club form and wording, Letter of Indemnity to be signed by Charterers only. Cgoes will be discharged to custom custody. But in any case not to release any cgo from custom custody untill orginal bs/l submitted to the ows.

- CARGO QTY WILL BE AS PER SHORE TALLY IN LOADPORT[NUMBER OF SLING BAGS LOADED AND SAME WILL BE INSERTED INTO THE BS/L. Owners confirm that figures of shore tally at load port (number of sling bags) will be inserted in bladings. In case of any dispute between shore tally & ship tally then chrtas to indemnify owners fm cargo claims at disports regarding the disputed amount between shore tally & ships tally and case any cargo claim regarding the disputed amount then chrtas to be responsible.

- NO TIER LIMITATION IS REQUESTED FOR THIS CGO AND CHARTERERS GUARANTEE THIS WILL NOT DAMAGE TO THE CGO.

-CASE REQUIRED BY CHRTS,

Owners confirm acceptance to issue a 2nd set of original bills of lading Marked "FRT Prepaid" & Shippers (Pegase) after receipt of fxt and after receipt of full set of 1st original bs/l in owners office Chrtas to issue LOI as per owners wording plus draft copy of 2nd original bs/l will be confirmed by owners before issuing 2nd original set of bills of lading and 1st and 2nd set of original bs/l will be in strict confirmity except FRT PREPAID AND PEGASE AS SHIPPERS.

-VSL STEAM TIME, FM ANCHORAGE OR PILOT STATION TO BERTH, SHOULD BE EXCLUDED FM LAYTIME.
ALL SHIFTING EXPENSES TO BE FOR CHARTERERS ACCOUNT AND ALL TIME TO COUNT DURING SHIFTING AT BENDS (CHARTERERS WORDING ACCEPTED THIS IS FOR BERTH TO BERTH , OR BERTH TO ANCHORAGE SHIFTINGS)

-CHRTS GUARANTEE NO RESTRICTION FOR M/V NURTEM ANA AT BENDS

-FDEANRVAOCLONL

-TIME USED BEFORE COMMENCEMENT OF LAYTIME SHALL COUNT

X -ANY TAXES/DUES /WHARFAGES ON CGO TO BE FOR CHTRS -ANY TAXES/DUES ON VSL/FRT FOR OWNERS ACCT -SHIP SIDE TALLY FOR OWNERS A/C , SHORE SIDE TALLY FOR CHTRS A/C

-VSL FREE OF EXTRA INSURANCE IF ANY

-EXTRA WAR RISK PREMIUM ,IF ANY , TO BE FR CHRS' ACCNT

- ALL SIDES OF THE HOLDS (INCLUDING FLOORS , TANKTOPS) WHERE BGD CEMENT CGO MAY TOUCH WILL BE COVERED BY PROPER COVER SHEETS IN ORDER TO PREVENT BGD CEMENT CGO TO TOUCH TO THE HOLDS ON CHARTERERS TIME AND ACCT.

-ISPS/MTSA CLAUSE FOR VOYAGE VOY CHARTER PARTIES 2005 TO APPLY

C -BOTH TO BLAME COLLISION CLAUSE, BULK CARRIER SAFETY CLAUSE, HIMALAYA BILL OF LADING CLAUSE, NEW JASON CLAUSE, GENERAL CLAUSE PARAMOUNT, VOYMAR 1993, GENERAL STRIKE CLAUSES, P&I BUNKERING CLSE ARE TO BE DEEMED TO BE INCORPORATED IN THIS C/P AND BS/L .

-BIMCO STANDARD DISPUTE RESOLUTION CLAUSE ENGLISH LAW LONDON ARBITRATION
(A) TO APPLY

-C/P TERMS AND CONDITIONS ALWAYS BE INCORPORATED TO THE BILL OF LADING AND SUPERSEDE BILL OF LADING TERMS WHENEVER CONTRADICTORY.

|-G/A ARBITRATION IN LONDON -Y/A AS AMENDED 90-94 ENGLISH LAW TO BE APPLIED

-CONGEN BS/L TO BE USED AND ALWAYS NO LINER/THROUGH/TRANSSHIPMENT BS/L, NO WAYBILLS UNDER THIS C/P"

ISM CLAUSE

THE REQUIREMENTS OF THE INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE ARE HEREBY INCORPORATED INTO THE TERMS OF THIS CP.

C OWS WARRANT THAT FROM THE DATE OF COMING INTO FORCE OF THE INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE IN RELATION TO THE VESSEL AND THEREAFTER DURING THE CURRENCY OF THIS CHARTER PARTY, THE OWNERS SHALL PROCUER THAT BOTH THE VESSEL AND ''THE COMPANY'' (AS DEFINED BY THE ISM CODE) SHALL COMPLY WITH THE REQUIREMENTS OF THE ISM CODE.

THE OWNERS UNDERTAKE THAT THE VESSEL WILL HAVE ON BOARD THE CORRESPONDING CERTIFICATES VALID FOR THE FULL DURATION OF THIS C/P.

UPON REQUEST THE OWNERS SHALL IMMEDIATELY PROVIDE A COPY OF THE RELEVANT DOCUMENT OF COMPLIANCE (DOC) AND SAFETY MANAGEMENT CERTIFICATE (SMC) TO THE CHARTERERS .

ANY CONSEQUENCES SUCH AS LOSS, DAMAGE, EXPENSE OR DELAY CAUSED BY FAILURE ON THE PART OF THE OWNERS OR 'THE COMPANY' TO COMPLY WITH THE ISM CODE SHALL BE FOR OWNERS' ACCOUNT. VESSEL/OWNERS TO BE FULLY ISPS COMPLIANT.

MAIN BODY

- LINE 180 : DELETE AND ANY SUBSEQUENT MODIFICATION THEROF

RIDERS :

- CLS 20 : TO BE AMENDED AS MAINTERS

- CLS 21 : DELETE IN FULL (MAIN TERMS TO APPLY)

- CLS 22 : LAST PARAG TO READ

"Owner to guarantee delivery of loading & discharging ports NOR & SOF (fax copies) till end of clause."

- CLS 25 : 1ST PARAG DELETE "5/4/3/2" & INSERT NOTICE ON FIXING (THERE IS ONLY ONE DAY IN BETWEEN 2 PORTS)

- CLS 36 : TO READ

"In case owners need to sell the vsl or transfer ownership or change FLAG or P&I then chrtgs must be notified & owners guarantee the performance of the C/P as agreed untill the completion of voyage."

- CLS 37 : DELETE IN FULL (MAIN TERMS TO APPLY)

- CLS 40 : DELETE FROM STRIKES OR LOCOUTS ... TILL/INCLUDING AND DISCHARGING
DELETE FROM BREAKDOWN ON OR TILL/INCLUDING OR THE SUPPLIERS
DELETE FROST , FIRE

- CLS 42 : INSERT IF AVAILABLE AFTER ACCOMODATION

ADDITIONAL CLSES :

- IF VSL DISCHARGE AT ANCHORAGE CGO WILL BE DISCHARGED TO BARGES NO DOUBLE BANKING CLS WILL APPLY

- CHARTERERS GUARANTEE MAX TTL D/AS AT MORONI AND MAYOTTE USD 80.000.- IF MORE THAN USD 70.000.- CHARTERERS WILL PAY THE DIFFERENCE

END++

Pls confirm by return all in order & kindly update on vsls eta longkou.

Awaiting vsls certificates & frt tax exemption certificates.

Tks,Rgds,
Mahmoud

Ex. B

17/06/2008 17:21 --000

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Page 1

FINAL FREIGHT STATEMENT

Contract : 01 Charter Party : G2008 31/12/2007 Vessel : NURITEN ANA
 Charterer : PEGASE INTERNATIONAL SA C a r g o
 Owner : MARDENIZ 32,116.800 MT BAGGED CEMENT

USD	DEBIT	CREDIT
Freight		2,601,460.80
Freight Commission 3.75%	97,554.78	
Despatch at Loading Port(s)	0.00	
Despatch at Discharging Port(s)	0.00	
Demurrage at Loading Port(s)		2,331.60
Demurrage at Discharging Port(s)		294,430.86
Demurrage Commission 3.75%	11,128.59	
1st payment	2,387,459.39	
2nd payment	2,331.60	
3rd payment	116,416.63	
(mayotte d/a+moroni d/a)-usd 70,000		4,413.00
Total	2,614,890.99	2,902,635.96
Balance due Owner's Favour	287,744.97	